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testator by his will ordered and directed that the devisee should at her expense provide for the maintenance and support of her two brothers during their natural lives. The petitioner sought to have the court declare, under a statute of 1915 giving "any person claiming a right cognizable in a court of equity, under a deed, will, or other written instrument [the privilege of applying] for the determination of any question of construction thereof," that she was seized in fee simple of the land, free from any charge thereon arising out of the direction to support her brothers. She asked for no other relief. *Held,* that the petitioner was entitled to obtain a declaration of her rights under the will, even though not incidental to a request for equitable relief, as the statute was not meant to be merely declaratory of existing law, but to be remedial. *In re Ungaro's Will* (1917, N. J. Ch.) 102 Atl. 244.

This appears to be one of the few American cases in which a departure has been recognized from the orthodox view that the aid of a court for the purpose of construction or for the purpose of declaring rights cannot be invoked in the absence of any concomitant request for coercive relief. An article by Professor Borchard, of the Yale School of Law, on the subject of declaratory judgments from the point of view of comparative law will be published in an early number of the YALE LAW JOURNAL.

PUBLIC SERVICE COMPANIES—REQUIREMENT OF UNPROFITABLE SERVICE—DUE PROCESS OF LAW.—After a proper hearing, the New York Public Service Commission ordered the plaintiff in error, a gas company, to extend its mains so as to supply a thriving district located a mile and a half beyond its nearest mains but within the territory included in its franchise. The company claimed that the order was confiscatory, and in violation of the Fourteenth Amendment, since the extension, in itself, would not yield a fair return, though it was not claimed that the general business of the company would not continue profitable. *Held,* that no constitutional right of the plaintiff in error was violated by the order. *People ex. rel. New York & Queens Gas Co. v. McCall* (1917) 38 Sup. Ct. 122.

The soundness of the decision itself is hardly open to controversy. The language of the court, however, to the effect that public service companies may not "pick and choose," serving only the most profitable portions of the territory covered by their franchises, and leaving the rest without service, obscures the real issue, which is not between the company and the applicants for service, but between the different portions of the community. It would be more accurate to say that within reasonable limits, for the good of the whole community, one portion must often pay temporarily, and sometimes permanently, a part of the cost of serving the rest. Unless the company could thus shift the burden, the requirement of the unprofitable service would be clearly confiscatory. The application of the principle depends, of course, on questions of fact, of reasonableness, and of balance of public benefit,—typically the sort of questions which public service commissions are created to determine.